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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,864	12/04/2003	Timothy S. Skipper		7890
7590	02/24/2005		EXAMINER	CHIN SHUE, ALVIN C
J. WILEY HORTON, ESQUIRE Pennington, Moore, Wilkinson, Bell & Dunbar, P.A. Post Office Box 10095 Tallahassee, FL 32302-2095			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

	Application No.	Applicant(s)
	10/727,864	SKIPPER, TIMOTHY S.
Examiner	Art Unit	
Alvin C. Chin-Shue	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molliere in view of Forrester. Molliere shows the claimed ladder and stand with the exception of the attaching means for each of his column. Forrester shows attaching means 65 for each of his column. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide one of the attaching means 580,570 for each of the column of Molliere, as taught by Forrester, to enhance securing of his ladder to a tree.

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berryman in view of Forrester and Thomas. Berryman shows the claimed ladder and stand with the exception of the attaching means for each of his column and the jointed connection between his second support column 18 and his vertical mounting post 14. Forrester shows attaching means 65 for each of his column. Thomas shows a jointed connection between his vertical mounting post 91 and his second support 41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide one of the attaching means 26 for each

of the column of Berryman, as taught by Forrester, to enhance securing of his ladder to a tree, and to provide one of his bearing joint 32 between his mounting post 14 and his second support column 18, as taught by Thomas, to facilitate carrying.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berryman, Forrester and Thomas, as applied to claim 2 above, and further in view of Garb. Garb shows standoff at 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide standoff to Berryman, as taught by Garb, for spacing his stand from a tree.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a ladder and stand, classified in class 182, subclass 116.
- II. Claims 7 and 8, drawn to a modular ladder, classified in class 182, subclass 151.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as

claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require standoffs on the ladder sections. The subcombination has separate utility such as a ladder usable with a stand.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with attorney Horton on 2.6.05 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7 and 8 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

ACS